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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 TIMOTHY WOOD,

No. CIV.S-04-1234 DAD

12 Plaintiff,

13 v.

ORDER

14 JO ANNE B. BARNHART,  
15 Commissioner of Social  
Security,

16 Defendant.  
17 \_\_\_\_\_/

18 This social security action was submitted to the court,  
19 without oral argument, for ruling on plaintiff's motion for summary  
20 judgment and defendant's cross-motion for summary judgment. For the  
21 reasons explained below, the court concludes that the decision of the  
22 Commissioner of Social Security ("Commissioner") must be affirmed.

23 **PROCEDURAL BACKGROUND**

24 Plaintiff Timothy Wayne Wood, who is proceeding pro se in  
25 this action, applied for Disability Insurance Benefits and  
26 Supplemental Security Income under Titles II and XVI of the Social

1 Security Act (the "Act"), respectively. (Transcript (Tr.) at 69-71,  
2 423-26.) The Commissioner denied plaintiff's applications initially  
3 and on reconsideration. (Tr. at 39-43, 48-52.) Pursuant to  
4 plaintiff's request, a hearing was held before an administrative law  
5 judge ("ALJ") on June 10, 2003, at which time plaintiff appeared  
6 without representation. (Tr. at 473-94.) In a decision issued on  
7 September 16, 2003, the ALJ determined that plaintiff was not  
8 disabled. (Tr. at 18-30.) The ALJ entered the following findings in  
9 this regard:

- 10 1. The claimant meets the nondisability  
11 requirements for a period of disability  
12 and Disability Insurance Benefits set  
13 forth in Section 216(i) of the Social  
Security Act and is insured for  
benefits through the date of this  
decision.
- 14 2. The claimant has not engaged in  
15 substantial gainful activity since the  
alleged onset of disability.
- 16 3. The claimant has an impairment or a  
17 combination of impairments considered  
"severe" based on the requirements in  
18 the Regulations 20 CFR §§ 404.1520(b)  
and 416.920(b).
- 19 4. These medically determinable  
20 impairments do not meet or medically  
21 equal one of the listed impairments in  
Appendix I, Subpart P, Regulation No.  
4.
- 22 5. The undersigned finds the claimant's  
23 allegations regarding his limitations  
24 are not totally credible for the  
reasons set forth in the body of the  
decision.
- 25 6. The undersigned has carefully  
26 considered all of the medical opinions  
in the record regarding the severity of

1 the claimant's impairments (20 CFR §§  
2 404.1527 and 416.927).

3 7. The claimant has the following residual  
4 functional capacity: capable of light  
5 exertion work, occasionally lifting 20  
6 pounds and lifting and carrying 10  
7 pounds on a more frequent basis (20 CFR  
8 § 416.967). He can occasionally climb,  
stoop, kneel, crouch or crawl, cannot  
climb ropes or scaffolding and must  
avoid a hazardous work environment. He  
is limited to simple tasks and  
instructions, limited public contact  
and limited supervisor contact.

9 8. The claimant is unable to perform any  
10 of his past relevant work (20 CFR §§  
404.1565 and 416.965).

11 9. The claimant is a "younger individual  
12 between the ages of 18 and 44" (20 CFR  
§§ 404.1563 and 416.963).

13 10. The claimant has a high school (or high  
14 school equivalent) education (20 CFR §§  
404.1564 and 416.964).

15 11. The claimant has no transferable skills  
16 from any past relevant work and/or  
17 transferability of skills is not an  
issue in this case (20 CFR §§ 404.1568  
and 416.968).

18 12. Although the claimant's exertional  
19 limitations do not allow him to perform  
the full range of light work, using  
20 Medical-Vocational Rule 202.21 as a  
framework for decisionmaking, there are  
21 significant numbers of jobs in the  
national economy that he could perform.  
22 Examples of such jobs include work as  
automatic developer of photographs,  
23 seedling sorter, and small products  
assembler.

24 13. The claimant was not under a  
25 "disability," as defined in the Social  
Security Act, at any time through the  
26 date of this decision (20 CFR §§  
404.1520(f) and 416.920(f)).

1 (Tr. at 29-30.) The ALJ's decision became the final decision of the  
2 Administration when the Appeals Council declined review on May 13,  
3 2004. (Tr. at 11-14.) Plaintiff then sought judicial review,  
4 pursuant to 42 U.S.C. § 405(g), by filing the complaint in this  
5 action on June 17, 2004.

#### 6 **LEGAL STANDARD**

7 The Commissioner's decision that a claimant is not disabled  
8 will be upheld if the findings of fact are supported by substantial  
9 evidence and the proper legal standards were applied. Schneider v.  
10 Comm'r of the Soc. Sec. Admin., 223 F.3d 968, 973 (9th Cir. 2000);  
11 Morgan v. Comm'r of the Soc. Sec. Admin., 169 F.3d 595, 599 (9th Cir.  
12 1999). The findings of the Commissioner as to any fact, if supported  
13 by substantial evidence, are conclusive. See Miller v. Heckler, 770  
14 F.2d 845, 847 (9th Cir. 1985). Substantial evidence is such relevant  
15 evidence as a reasonable mind might accept as adequate to support a  
16 conclusion. Morgan, 169 F.3d at 599; Jones v. Heckler, 760 F.2d 993,  
17 995 (9th Cir. 1985) (citing Richardson v. Perales, 402 U.S. 389, 401  
18 (1971)).

19 A reviewing court must consider the record as a whole,  
20 weighing both the evidence that supports and the evidence that  
21 detracts from the ALJ's conclusion. See Jones, 760 F.2d at 995. The  
22 court may not affirm the ALJ's decision simply by isolating a  
23 specific quantum of supporting evidence. Id.; see also Hammock v.  
24 Bowen, 879 F.2d 498, 501 (9th Cir. 1989). If substantial evidence  
25 supports the administrative findings, or if there is conflicting  
26 evidence supporting a finding of either disability or nondisability,

1 the finding of the ALJ is conclusive, see Sprague v. Bowen, 812 F.2d  
2 1226, 1229-30 (9th Cir. 1987), and may be set aside only if an  
3 improper legal standard was applied in weighing the evidence, see  
4 Burkhart v. Bowen, 856 F.2d 1335, 1338 (9th Cir. 1988).

5 In determining whether or not a claimant is disabled, the  
6 ALJ should apply the five-step sequential evaluation process  
7 established under Title 20 of the Code of Federal Regulations,  
8 Sections 404.1520 and 416.920. See Bowen v. Yuckert, 482 U.S. 137,  
9 140-42 (1987). This five-step process can be summarized as follows:

10 Step one: Is the claimant engaging in substantial  
11 gainful activity? If so, the claimant is found  
not disabled. If not, proceed to step two.

12 Step two: Does the claimant have a "severe"  
13 impairment? If so, proceed to step three. If  
not, then a finding of not disabled is  
14 appropriate.

15 Step three: Does the claimant's impairment or  
16 combination of impairments meet or equal an  
impairment listed in 20 C.F.R., Pt. 404, Subpt.  
17 P, App. 1? If so, the claimant is conclusively  
presumed disabled. If not, proceed to step four.

18 Step four: Is the claimant capable of performing  
his past work? If so, the claimant is not  
19 disabled. If not, proceed to step five.

20 Step five: Does the claimant have the residual  
functional capacity to perform any other work?  
21 If so, the claimant is not disabled. If not, the  
claimant is disabled.

22 Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995). The claimant  
23 bears the burden of proof in the first four steps of the sequential  
24 evaluation. Yuckert, 482 U.S. at 146 n.5. The Commissioner bears  
25 the burden if the sequential evaluation process proceeds to step  
26 five. Id.; Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999).

**APPLICATION**

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2           Liberally construed, plaintiff's brief, handwritten motion  
3 for summary judgment asserts that the decision denying him benefits  
4 is not supported by substantial evidence. After reviewing the ALJ's  
5 decision and the record, the court concludes that plaintiff's  
6 argument is unpersuasive.

7           In connection with his applications for benefits plaintiff  
8 alleged disability based on a gastrointestinal condition know as  
9 Barrett's esophagus and cirrhosis of the liver. (Tr. at 116.) The  
10 ALJ found plaintiff to have the severe impairments of "diseases of  
11 the esophagus, cirrhosis of the liver, affective mood disorder and  
12 alcohol abuse disorder." (Tr. at 23.) Nonetheless, the ALJ further  
13 determined that plaintiff has the residual functional capacity to  
14 occasionally lift 20 pounds and frequently lift 10 pounds. (Tr. at  
15 27, 29.) The ALJ further determined that plaintiff should only  
16 occasionally climb, stoop, kneel, crouch or crawl and must avoid  
17 climbing ropes or scaffolding and any hazardous work environment.  
18 (Id.) Plaintiff also is limited to simple tasks and instructions as  
19 well as to having only limited public contact and limited supervisor  
20 contact. (Id.) The ALJ's determination in this regard is supported  
21 by substantial evidence in the record.

22           Specifically, after conducting a complete internal medicine  
23 examination of plaintiff on January 29, 2002, Amit Rajguru, M.D.  
24 determined that plaintiff is able to lift, carry, sit, stand and walk  
25 without any restrictions. (Tr. at 261.) The only limitation

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1 assessed by Dr. Rajguru was that plaintiff "should be limited to  
2 eating small, frequent meals throughout the day." (Id.)

3       Following a psychological examination of plaintiff, David  
4 C. Richwerger, Ed.D. opined that plaintiff "would likely have  
5 difficulty with detailed and complex tasks. The claimant is able to  
6 perform simple and repetitive tasks." (Tr. at 269.) Dr. Richwerger  
7 assessed no other limitations. He found plaintiff to have adequate  
8 abilities in maintaining concentration, persistence and pace as well  
9 as social functioning. (Id.) He also found plaintiff able to adapt  
10 to the usual stresses encountered in competitive work environment  
11 and to be capable of managing his own funds. (Id.)

12       Finally, a variety of non-examining state agency physicians  
13 found plaintiff capable of performing work. The physicians  
14 evaluating plaintiff's mental residual functional capacity found him  
15 either "not significantly" or "moderately" limited with respect to  
16 the mental activities evaluated. (Tr. at 284-86, 350-53.) Those  
17 physicians evaluating plaintiff's physical residual functional  
18 capacity found him capable of light work with certain postural  
19 limitations which the ALJ adopted. (Tr. at 288-95, 319-26, 376-83.)

20       In light of this evidence, and considering the  
21 administrative record as a whole, the court finds that the ALJ's  
22 residual functional capacity determination and finding of

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nondisability are supported by substantial evidence.<sup>1</sup> In finding plaintiff capable of performing work, the ALJ properly discharged his responsibilities of determining credibility and resolving any conflicts or ambiguities in the medical testimony. See Magallanes v. Bowen, 881 F.2d 747, 750 (9th Cir. 1989). The ALJ discussed all of the evidence and set forth a rational interpretation of the evidence in his decision. See Matney on Behalf of Matney v. Sullivan, 981 F.2d 1016, 1019 (9th Cir. 1992) ("The trier of fact and not the reviewing court must resolve conflicts in the evidence, and if the evidence can support either outcome, the court may not substitute its judgment for that of the ALJ."). Plaintiff's assertion to the contrary is unpersuasive.

#### CONCLUSION

Accordingly, the court HEREBY ORDERS that:

1. Plaintiff's motion for summary judgment is denied;
2. Defendant's cross-motion for summary judgment is granted; and
3. The decision of the Commissioner denying benefits is affirmed.

DATED: January 12, 2006.

DAD:th  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> In finding plaintiff not disabled, the ALJ also relied on the testimony of a vocational expert who identified a significant number of jobs which plaintiff could perform. (Tr. at 490-92.) The ALJ's hypothetical question to the vocational expert accurately and completely set out all of plaintiff's limitations and restrictions as required. See Magallanes, 881 F.2d at 756-57.